

## REMARKS

Certain merely clarifying amendment have been made to a number of the claims, such as to provide proper antecedent basis.

Claims 1-37 are rejected as follows: claims 1-3, 5-7, 11, 13-15, 18-23, 25-30 and 32-37 are rejected under 35 USC 103(a) as being unpatentable over Kock (US 20040185885) in view of Flanagan (US 6,128,661), claims 4, 24 and 31 are rejected under 35 USC 103(a) as being unpatentable over Kock and Flanagan and further in view of Mirouze (US 2004/0023664), claims 8-10, 16 and 17 are rejected under 35 USC 103(a) as being unpatentable over Kock and Flanagan and further in view of Kotzin (US 2005/0198376), claim 11 is rejected under 35 USC 103(a) as being unpatentable over Kock and Flanagan and further in view of Cooper (US 5,961,588), and claim 12 is rejected under 35 USC 103(a) as being unpatentable over Kock and Flanagan and further in view of Novak (US 6,882,659). These rejections are respectfully disagreed with, and are traversed below.

It is first noted that in the rejection based solely on Kock and Flanagan the Examiner first states that in Kock first and second devices "each have the same hierarchical data structure", and then states that "Kock is silent with respect to the hierarchical data structure". As such, the Examiner's basis for using Kock is unclear. It will be assumed that the Examiner believes that Kock does not suggest or teach the use of a hierarchical data structure. If this assumption is not correct, then the Examiner is requested to issue a further, non-final office action to clarify her reasons for rejection.

It is submitted that Kock (and Kock in view of Flanagan) is devoid of teachings of using, at a first device, data stored at a first portion of the hierarchical data structure as "settings for a first service".

In the rejection the Examiner apparently equates paragraph [0041] of Kock with the claimed "sending a data transfer request identifying a first portion **[of the hierarchical data structure]** from the first device to the second device" (the highlighted text is not mentioned by the

Examiner).

It is pointed out that what is actually stated in paragraph [0041] is the following:

The sending mobile device 102 may wish to send a message to the receiving mobile device 104. The message may include sound (for example voice or music), text, control data, and/or images (graphics). While the sending mobile device 102 may be capable of sending and receiving voice, data, and graphics, the receiving mobile device 106 may or may not be capable of receiving a message in the formats supported by the sending mobile device 102.

This disclosure of possibly sending a message that the receiving device may not be capable of receiving in the format that a message is sent, and/or of somehow informing the sending device of the message reception/handling capabilities of the receiving device, is clearly not related to the claimed subject matter.

The addition of Flanagan for purportedly teaching the hierarchical data structure portion of the first element of claim 1 clearly does not remedy the problem. Flanagan is concerned with interaction between a computer and a mobile device. Col. 7, lines 42-48, cited by the Examiner, describes the conventional use of registries to store user settings of applications "as well as where particular files are to be stored in tree-type directories".

Thus, even if the teachings of Flanagan were to be incorporated into the teachings of Kock as they pertain to sending messages such as voice, data and graphics messages, which is not admitted is suggested (and without admitting that Kock and Flanagan are "analogous art"), at most at least one of the sending and receiving devices of Kock would be provided with a conventional registry for indicating where particular files are stored in a tree-type directory. There would clearly be no disclosure, as in claim 1, of:

sending a data transfer request **identifying a first portion of the hierarchical data structure from the first device to the second device;**

**copying data stored at the first portion of the hierarchical data structure of the second device from the second device to the first device;**

storing the copied data at the first portion of the hierarchical data structure of the first device; and

**using, at the first device, the data stored at the first portion of the hierarchical data structure as settings for a first service.**

It is noted that Flanagan mentions "settings" and "services", but the context is clearly different than the subject matter of the exemplary embodiments of this invention. For example, Flanagan at col. 3, line 44 to col. 5, line 24 states the following:

In one embodiment, the partnership information 10 corresponding to each mobile device 3A and 3B is stored on the desktop computer 4 and is accessed each time the user connects the mobile devices 3A and 3B thereto. Thus, each user need not have to reestablish his or her user preferences each time the mobile device 3A or 3B is connected. In a preferred embodiment, the **partnership information 10 includes any unique settings for each unique type of mobile device** being connected to the desktop computer 4. In this manner, the mobile devices 3A and 3B need not be the same type. The partnership information 10 can be stored remote from the desktop computer 4. If desired, some of the partnership information 10, for example, **some or all of the user settings, can be stored on each of the respective mobile devices 3A and 3B, which would then be accessible by the desktop computer 4.** Likewise, the partnership information 10 can also be stored, for example, on a network server that is accessible to the desktop computer 4. Typically, the **partnership information 10 on the desktop computer 4 includes a record of the partnership with the mobile device and a module to access any relevant user setting pertaining to the partnership no matter where they are stored.** The partnership information 10 is preferably organized under unique identifiers stored at 15A and 15B assigned, for example, during initial formation of each partnership. The unique identifiers stored at 15A and 15B are stored on the desktop computer 4 and stored separately on each of the mobile devices 3A and 3B. In addition to the unique identifiers stored at 15A and 15B, device names can also be stored at 16A and 16B in the partnership information 10 along with the name of the computer 4 stored at 14. **The partnership information 10 includes configuration settings for services used by the user to transfer or copy data between the connected mobile device 3A or 3B and the desktop computer 4 as well as data necessary to perform a service. As used herein, a "service" is a single or group of functions made available to the mobile device that connects to the desktop computer 4 with the service installed. For example, a "Synchronization Service" is a service that specializes in the transfer of data between the connected mobile device 3A and the desktop computer 4, including replications or automatic file copy.**

**Other services include a file conversion service that converts files between the connected mobile device 3A or 3B and the desktop computer 4 (for example, when the user specifies that one or a plurality of files be separately copied) so that data files can be accessed by each respective application program residing thereon. Another service includes synchronizing time and date clocks of the connected mobile device 3A and the desktop computer 4.**

Clearly, the disclosure of Flanagan as it pertains to user settings and services is not analogous to the settings and services claimed in the independent claims of this patent application (note that at least independent claims 26 and 32 refer to a "telecommunications service") and, as a result, the proposed combination of Flanagan with the message sending disclosure of Kock, which is not admitted is suggested, would not render the independent claims unpatentable.

However, in order to even further clarify the claimed subject matter, and to further advance this patent application towards issuance, each of the independent claims has been amended in a somewhat similar fashion to recite with more specificity, as in claim 1:

sending a data transfer request identifying a first portion of the hierarchical data structure from the first device to the second device, the first portion comprising data descriptive of service provider provisioned service settings for a first service.

Continuing then with claim 1, what is further recited is, as was noted above:

**copying data stored at the first portion of the hierarchical data structure of the second device from the second device to the first device;**

**storing the copied data at the first portion of the hierarchical data structure of the first device; and**

**using, at the first device, the data stored at the first portion of the hierarchical data structure as settings for the first service.**

The claim is certainly not made unpatentable by the proposed combination of Kock and Flanagan.

The Examiner points to col. 4, lines 7-22, of Flanagan for teaching the "copying data stored at the

first portion of the hierarchical data structure of the second device from the second device to the first device". As was shown above, what this portion of Flanagan actually states is:

The partnership information 10 includes configuration settings for services used by the user to transfer or copy data between the connected mobile device 3A or 3B and the desktop computer 4 as well as data necessary to perform a service. As used herein, a "service" is a single or group of functions made available to the mobile device that connects to the desktop computer 4 with the service installed. For example, a "Synchronization Service" is a service that specializes in the transfer of data between the connected mobile device 3A and the desktop computer 4, including replications or automatic file copy. Other services include a file conversion service that converts files between the connected mobile device 3A or 3B and the desktop computer 4 (for example, when the user specifies that one or a plurality of files be separately copied) so that data files can be accessed by each respective application program residing thereon.

This portion of Flanagan does not expressly disclose or suggest the claimed subject matter, even when read with the disclosure of Flanagan at col. 3, lines 55-65 (noted above):

If desired, some of the partnership information 10, for example, **some or all of the user settings, can be stored on each of the respective mobile devices 3A and 3B, which would then be accessible by the desktop computer 4**. Likewise, the partnership information 10 can also be stored, for example, on a network server that is accessible to the desktop computer 4. Typically, the **partnership information 10 on the desktop computer 4 includes a record of the partnership with the mobile device and a module to access any relevant user setting pertaining to the partnership no matter where they are stored**.

Further still, and as was discussed previously, the disclosure of Koch is directed, as stated in paragraph [0011], to:

informing the sending device of the capabilities of the receiving device, it is possible to send message data that can be handled by the receiving device, thus removing the need for any transcoding of the message data. In addition, sending message data that cannot be handled by the receiving device can be avoided, thus preventing data loss and eliminating the unnecessary transmission of incompatible data. As a result, the user-friendliness of the mobile service is enhanced as the user messages will be received substantially as they were sent ("what I send is what you receive"), and the amount of data processing required by the network is reduced.

Thus, the proposed combination of Kock and Flanagan would not suggest or render obvious the subject matter of the independent claims, particularly as now even further clarified by amendment.

It is noted that the subject matter added to the independent claims is similar in some respects to that originally found in claim 8 (now cancelled without prejudice or disclaimer). Claim 8 was rejected by the Examiner based on the combination of Kock, Flanagan and Kotzin. However, Kotzin discloses the use of "a uniquely identifiable set of information" that is associated with transferred content. Paragraph [0020] of Kotzin (cited by the Examiner) merely states:

The selection 202 of the uniquely identifiable set of information 106 may be an automatic operation by the first device 102 or a manual operation initiated by the user of the first device 102. It is envisioned that the user would identify what the uniquely identifiable set of information 106 will be, and then through a manual operation, such as pressing a button on the device for example, digitize and store the uniquely identifiable set of information 106 in a memory of the device. The uniquely identifiable set of information 106, and its relation to the content 104, or with the content 104, is transferred 206 to a content provider 110 in this exemplary embodiment.

Paragraphs [0006] and [0007], also cited by the Examiner for purportedly providing a motivation to combine, merely state a digital rights management (DRM) problem that Kotzin purportedly addresses as follows:

With current DRM systems, the user either can not forward the content because it is protected by a "forward lock" method preventing the forwarding of content. Such content as ring tones on radiotelephones for example are protected property rights and their distribution is controlled by the forward lock method as a means of content management. However, this does not allow for legal transfer of content, which can be beneficial to the content owner as well as the general public. Upcoming schemes that do allow users who are not the content owners transfer protected content lack ease of use and are non intuitive. Easy transfer of protected content legally from one user to another, particularly in the electronic and wireless world will allow content owners the benefit of increasing income from the content. What is needed is a method and apparatus that allows content to be transferred in an intuitive manner.

Clearly, the subject matter of claim 8 as filed is not rendered obvious by the teachings of Kotzin, and thus the proposed combination of Kock, Flanagan and Kotzin does not render claim 8 unpatentable, or the independent claims as now even further clarified by amendment.

For example, claim 20 as now presented recites:

A method of transferring service settings from a first device to a second device, wherein the first and second devices each have the same predetermined hierarchical data structure, comprising at a first portion for storing settings for accessing a first service and a second portion for storing settings for accessing a second service:

sending a data transfer request identifying a first portion of the hierarchical data structure from the first device to the second device;

transferring the data content stored at the identified first portion of the hierarchical data structure from the second device to the first device, **the data content comprising data descriptive of service provider provisioned service settings for the first service;**

storing the transferred data content at the first portion of the hierarchical data structure of the first device;

sending a data transfer request identifying a second portion of the hierarchical data structure from the first device to the second device;

transferring the data content stored at the identified second portion of the hierarchical data structure from the second device to the first device, **the data content comprising data descriptive of service provider provisioned service settings for the second service;**

storing the transferred data content at the second portion of the hierarchical data structure of the first device;

**using, at the first device, the settings stored at the first portion of the hierarchical data structure as settings for the first service and the settings stored at the second portion of the hierarchical data structure as settings for the second service.**

Further by example, claim 21 as now presented recites:

A method of transferring service settings from a first device to a second device, wherein the first and second devices each have the same predetermined hierarchical data structure, comprising:

receiving at the second device from the first device a data transfer request identifying a first portion of the hierarchical data structure;

copying data stored at the identified first portion of the hierarchical data structure of the second device from the second device to the first device, **the data comprising data descriptive of service provider provisioned service settings for a first service;**

using, at the second device, the data content stored at the first portion of the hierarchical data structure as settings for the first service.

Further by example, claim 21 as now presented recites:

A communications device comprising:

a radio transceiver;

a memory for storing data according to a predetermined hierarchical data structure;

a processor for reading data from the memory, wherein the data read from the first portion of the hierarchical data structure is usable for providing a telecommunications service via the cellular radio transceiver, **the data comprising data descriptive of service provider provisioned service settings for the telecommunications service;**

a wireless receiver for receiving a data transfer request identifying a first portion of the hierarchical data structure, wherein the processor responds to the data transfer request to read data from the first portion of the hierarchical data structure; and

a wireless transmitter for transmitting the data read from the memory in response to the data transfer request.

Further by example, claim 28 as now presented recites in part:

receiving, at the first device from the second device, data copied from the identified first portion of the hierarchical data structure of the second device, **the data comprising data descriptive of service provider provisioned service**



**settings for a first service;...**

using, at the first device, the data content stored at the first portion of the hierarchical data structure as settings for the first service.

Further by example, claim 32 as now presented recites in part:

A communications device comprising:

a radio transceiver;

a memory for storing data according to a predetermined hierarchical data structure;

a processor for reading data from the memory, wherein the data read from a first portion of the hierarchical data structure is usable for providing a telecommunications service via the radio transceiver, **the data comprising data descriptive of service provider provisioned service settings for the telecommunications service;**

a wireless transmitter for sending a data transfer request identifying the first portion of the hierarchical data structure, and

a wireless receiver for receiving data in response to the data transfer request, wherein the processor writes the received data to the first portion of the hierarchical data structure within the memory.

Clearly, the independent claims as now further clarified should be found to be allowable over the proposed combination of references, and also all dependent claims should be found to be allowable at least for this one reason alone.

It is also noted with respect to, e.g., claims 26 and 34 that the Examiner has not commented on, or shown where the cited references disclose, the use of a radio frequency transceiver and a wireless transmitter and a wireless receiver.

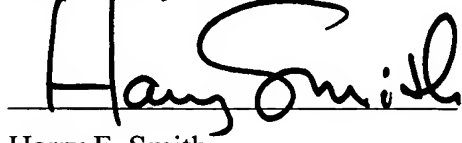
The Examiner is respectfully requested to reconsider and remove the rejections of claims 1-7 and 9-37, as now presented.

S.N.: 10/805,976  
Art Unit: 2161

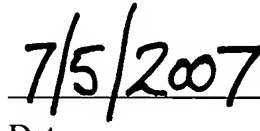
Claims 38-45 are newly added, and are supported throughout the specification as filed. No new matter is added. For at least the reasons stated above these claims should also be found to be allowable over the references that were cited and relied upon by the Examiner.

A favorable reconsideration that results in the allowance of all of the now pending claims is earnestly solicited.

Respectfully submitted:



Harry F. Smith



Date

Reg. No.: 32,493

Customer No.: 29683

HARRINGTON & SMITH, PC

4 Research Drive

Shelton, CT 06484-6212

Telephone: (203)925-9400

Facsimile: (203)944-0245

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450.



Date



Name of Person Making Deposit